

Serial No. : 10/604,561  
Applicants : Gerald L. Dykstra et al.  
Response to Office Action : Mailed From USPTO on 01/25/2006  
Page : 7

### **REMARKS**

This is in response to the Office Action mailed January 25, 2006. The amendments and remarks presented herein are believed to be fully responsive to the recent Office Action, which was designated a "final rejection." Enclosed herewith is a request for a continuing examination (RCE) and accompanying fee. Accordingly, withdrawal of the finality of the prior action and reconsideration of the application are requested.

### **Disposition of Claims.**

Claims 1-25 are pending in the application.

### **Drawings.**

In Applicants' prior response, Applicants submitted new drawings because the original drawings are deemed informal. The recent Office Action did not explicitly accept the replacement drawings. Acceptance of the replacement drawings is earnestly requested.

### **Claim Rejection - 35 U.S.C. § 102.**

Claims 1, 2, 5-11, 16, 18, 20, 21 and 24 were rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent 4,435,892 issued to Williams ("Williams"). Because Williams does not disclose every element of the rejected claims, it is submitted that the Office Action does not make out a case for anticipation. Accordingly, the rejection is traversed.

The undersigned wishes to express his gratitude to Examiners Agrawal and Jimenez for the courtesies that were extended to the undersigned at the personal interview conducted at the Patent Office on March 8, 2006. At the interview, the claimed invention was discussed and compared with both the Williams reference, which was applied to the claims in the Office Action, and United States Patent 4,392,403 issued to Martindale, Jr. ("Martindale") which was cited in the Office Action but not applied to the claims.

In order to expedite prosecution, claim 1 is amended as follows:

**BEST AVAILABLE COPY**

Serial No. : 10/604,561  
Applicants : Gerald L. Dykstra et al.  
Response to Office Action : Mailed From USPTO on 01/25/2006  
Page : 8

1. A method of at least partially disassembling a pallet, the pallet having a plurality of deck board support interfaces, said deck board support interfaces arranged in rows and columns with at least three deck board support interfaces in each row and each column, said method comprising:

providing at least one cutting device that is positionable at any one of the deck board support interfaces, said at least one cutting device comprising a pair of arms having first and second opposite end portions and a pair of shearing blades each mounted at said first end portion of one of said arms, wherein each of said pair of arms is rotably mounted;

selectively positioning said at least one cutting device adjacent a particular deck board support interface of the pallet; and cutting fasteners at the particular deck board support interface with said at least one cutting device without the necessity of cutting fasteners at other deck board support interfaces in the row and the column in which the particular deck board support interface is located, said cutting including selectively moving said shearing blades toward each other including rotating said pair of arms, said rotating including applying a force moving said second end portions of said pair of arms apart.

It is submitted that claim 1 is patentably distinguishable over Williams at least for the reason that Williams does not disclose, teach or suggest moving shearing blades towards each other including rotating a pair of arms by applying a force moving second end portions of the arm apart. As discussed during the interview, "pairs of pivot pins 77" of Williams, that are in the

**BEST AVAILABLE COPY**

Serial No. : 10/604,561  
Applicants : Gerald L. Dykstra et al.  
Response to Office Action : Mailed From USPTO on 01/25/2006  
Page : 9

embodiment illustrated in Figs. 1-9, are part of a selective adjustment mechanism to selectively vary the amount of overlap of the cooperating circular blades (column 7, line 48 - column 8, line 12). They do not provide for rotating of a pair of arms to selectively move shearing blades towards each other by applying a force moving second end portions of the arms apart as set forth in amended claim 1. Nor does the embodiment of Williams illustrated in Figs. 10-12 provide for the method as set forth in claim 1. Shear blade assemblies 103a and 103b move towards each other as they are operated in opposite directions by their respective hydraulic cylinder units 123a, 123b. Therefore, the motion is one of translation in mutually perpendicular directions, not rotation. During the interview, Examiner Agrawal made reference to the unnumbered interface between actuator 123a and shear blade assembly 103a and between actuator 123b and shear blade assembly 103b as providing for a rotating motion. This logic is traversed. There is no enabling disclosure of such motion in Williams. Also, the remaining elements of claim 1 are not met by the embodiment in Figs. 10-12 of Williams. Accordingly, it is submitted that claim 1 is patentably distinguishable over Williams.

During the interview, Examiner Agrawal made reference to United States Patent 4,392,403 issued to Martindale. However, amended claim 1 is patentably distinguishable over Martindale. In particular, the cutter support bars 75, 76 of Martindale are pivoted with respect to support members 70, 71 by lever members 85. In order to move the cutting tools toward each other, it is necessary for hydraulic cylinder 61 to move guide bars 60 and, hence, lever members 85 in the same general direction. Thus, Martindale does not disclose, teach or suggest rotating the arms including applying a force moving a second end portion of the pair of arms apart. Moreover, it is submitted that the invention as defined in claim 1 provides improvements over Martindale in that the invention as defined in claim 1 does not require complicated pivots, lever arms, and the like, to be positioned with the shearing blades in the harsh environment of the interior of the pallet being at least partially disassembled. Accordingly, it is submitted that amended claim 1 is patentably distinguishable over Martindale and the remainder of the prior art.

Claim 5 is amended as follows:

Serial No. : 10/604,561  
Applicants : Gerald L. Dykstra et al.  
Response to Office Action : Mailed From USPTO on 01/25/2006  
Page : 10

5. A pallet dismantler for disassembling a pallet having a plurality of deck board support interfaces, said dismantler comprising:

at least one shearing assembly comprising a pair of arms having first and second opposite portions, and a pair of shearing blades, each mounted at ~~at~~ said first end portion of one of said arms, wherein each of said pair of arms is pivotally mounted at a pivot assembly, said pivot assembly positioned between said first and second end portions, said shearing assembly is adapted to selectively position said shearing blades at substantially any one of the deck board support interfaces of a pallet including straddling any other deck board support interface between the one of the deck board support interfaces and said pivot; and

said at least one shearing assembly including an actuator ~~operating on~~, said actuator selectively applying a force moving said second end portions of said pair of arms apart to rotate said pair of arms about said pivot assembly to selectively move said shearing blades toward each other with a force sufficient to shear fasteners at a deck board support interface of a pallet.

It is submitted that amended claim 5 is patentably distinguishable over Williams and Martindale taken alone or in combination because the prior art does not disclose, teach or suggest an actuator selectively applying a force moving second end portions of a pair of arms apart to rotate the pair of arms about a pivot assembly to selectively move shearing blades towards each other with a force sufficient to shear fasteners at a deck board support interface of a pallet.

Claim 16, as amended, is as follows:

Serial No. : 10/604,561  
Applicants : Gerald L. Dykstra et al.  
Response to Office Action : Mailed From USPTO on 01/25/2006  
Page : 11

16. A pallet dismantler for disassembling a pallet having a plurality of deck board support interfaces, said dismantler comprising:

three pairs of arms, three pairs of shearing blades, each of said blades mounting at an end portion of one of said arms, three ~~pairs of pivot pins~~assemblies, each of said ~~pin~~pivot assemblies pivotally mounting one of said pair of arms, three actuators each positioned at another end portion of one of said pair of arms wherein said pivot ~~pins~~assemblies are between the respective said shearing blades and one of said actuators, wherein each of said actuators applies a force between said another end portion of the corresponding one of said pair of arms to rotate the corresponding pair of arms apart and force the corresponding shearing blades toward each other, said pairs of arms having central portions between said shearing blades and said pivot pins, said central portions adapted to straddle a deck board support interface when the corresponding pair of shearing blades is positioned at another deck board support interface; and

a control system, said control system having operator switches for individually enabling said actuators to substantially simultaneously selectively actuating any or all of said actuators.

For the same reasons set forth with respect to claim 5, it is submitted that claim 16 is patentably distinguishable over Williams and Martindale taken alone or in combination. Moreover, it is submitted that the prior art does not disclose, teach or suggest a control system having operator switches for individually enabling actuators to substantially simultaneously selectively actuate any or all of three actuators. For this additional reason, it is submitted that claim 16 is patentably distinguishable over the prior art.

Serial No. : 10/604,561  
Applicants : Gerald L. Dykstra et al.  
Response to Office Action : Mailed From USPTO on 01/25/2006  
Page : 12

Withdrawal of the rejection is respectfully requested.

The amendments presented herein are fully supported by the application as filed.  
Accordingly, no new matter is added. Issuance of a Notice of Allowance is earnestly solicited.

If Examiner Agrawal has any questions or reservations, Examiner Agrawal is requested to call the undersigned attorney.

Respectfully submitted,

GERALD L. DYKSTRA ET AL.

By: Van Dyke, Gardner, Linn  
& Burkhart, LLP

Dated: April 25, 2006.



Frederick S. Burkhart  
Registration No. 29 288  
2851 Charlevoix Drive, S.E., Suite 207  
Post Office Box 888695  
Grand Rapids, Michigan 49588-8695  
(616) 988-4104

FSB:djr  
IND06 P-311A